

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

v.

LARRY J. NIELD,
Defendant.

No. CR-05-162-FVS-5

ORDER

THIS MATTER comes before the Court based upon the defendant's motion to vacate the judgment. He is representing himself.

BACKGROUND

On August 31, 2006, judgment was entered based upon the defendant's plea of guilty to the crime of conspiring to manufacture marijuana. 21 U.S.C. § 846. The defendant moves to vacate the judgment. 28 U.S.C. § 2255. In essence, he alleges that the government violated the International Covenant on Civil and Political Rights ("ICCPR") by prosecuting him and that the Court did not have jurisdiction.

RULING

The defendant's allegations lack merit. To begin with, "the ICCPR does not create judicially-enforceable individual rights." *United States v. Duarte-Acero*, 296 F.3d 1277, 1283 (11th Cir.), cert. denied, 537 U.S. 1038, 123 S.Ct. 573, 154 L.Ed.2d 459 (2002). Furthermore, jurisdiction and venue are well established. A district court has subject matter jurisdiction over federal crimes. 18 U.S.C. § 3231. *Cf. United States v. Lee*, 472 U.S. 638, 641-42 (9th Cir.2006)

1 ("Congress vested district courts of the United States with
2 jurisdiction to prosecute federal crimes"). The Eastern District of
3 Washington is a "district court of the United States." 28 U.S.C. §§
4 128(a), 132, 451. The defendant was charged with a federal crime.
5 Therefore, subject matter jurisdiction existed. "[A] court has
6 exclusive personal jurisdiction over any party who appears before it,
7 regardless of how that appearance was effected." *United States v.*
8 *Warren*, 610 F.2d 680, 684 n.8 (9th Cir.1980) (citing *United States v.*
9 *Zammiello*, 432 F.2d 72, 73 (9th Cir.1970)). The defendant appeared in
10 the United States District Court for the Eastern District of
11 Washington. Therefore, personal jurisdiction existed. Finally,
12 "[v]enue for a conspiracy charge 'is appropriate in any district where
13 an overt act committed in the course of the conspiracy occurred.'" *United States v. Corona*, 34 F.3d 876, 878-91 (9th Cir.1994) (quoting
14 *United States v. Meyers*, 847 F.2d 1408, 1411 (9th Cir.1988)). In
15 pleading guilty, the defendant admitted facts sufficient to establish
16 venue.

17 **IT IS HEREBY ORDERED:**

- 18 1. The defendant's motion to show cause (**Ct. Rec. 421**) is denied.
- 19 2. The defendant's motion to vacate (**Ct. Rec. 419**) is denied.

20 **IT IS SO ORDERED.** The District Court Executive is hereby
21 directed to enter this order and furnish copies to the defendant and
22 to counsel for the government.

23 **DATED** this 16th day of October, 2007.

24 s/ Fred Van Sickle
25 Fred Van Sickle
26 United States District Judge